

SIVE | PAGET | RIESEL

ELIZABETH KNAUER
DIRECT DIAL: 646.378.7272
EKNAUER@SPRLAW.COM

June 27, 2024

VIA ECF

Judge Lewis J. Liman
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: *Chan v. U.S. Dep't of Transp.*, No. 23 Civ. 10365 (S.D.N.Y.) (LJL); *New Yorkers Against Congestion Pricing Tax v. U.S. Dep't of Transp.*, No. 24 Civ. 367 (S.D.N.Y.) (LJL); *Mulgrew v. U.S. Dep't of Transp.*, No. 24 Civ. 1644 (S.D.N.Y.) (LJL)

Dear Judge Liman,

We write on behalf of all parties in the above-referenced matters to submit the following proposed schedule to address the Court's direction in your order of June 18, 2024, that the parties shall confer and file a proposed schedule by today for supplemental briefing on how FHWA's June 14, 2024 reevaluation affects the pending motions regarding Count Two in each of the above-captioned cases.

The parties have conferred, and jointly propose the following. By July 12, 2024, Plaintiffs shall notify Defendants as to whether they intend to seek leave to further amend their complaints to challenge the failure to conduct supplemental NEPA review and the sufficiency of the reevaluation. If Plaintiffs decide to seek such leave, they would file their application to the Court by July 26, 2024. Also at that time, the parties would submit a proposed schedule for briefing opposition to the proposed amendment (if any) and a schedule for cross-motions for summary judgment should the motion be granted.¹

If plaintiffs choose not to seek leave to amend the complaints, by July 26, 2024, the parties will confer and submit a proposal with respect to any supplemental briefing on Count Two in each complaint as currently pled.

In addition, on behalf of the MTA/TBTA Defendants, we advise the Court that yesterday, the TBTA Board adopted the attached resolution (included with the staff summary presented at the board meeting) related to Central Business District Tolling Program.

¹ The Defendants will include a deadline by which they will lodge a supplemental appendix with the reevaluation and accompanying appendices, as requested by the Court, with this briefing schedule.

Judge Lewis J. Liman
June 27, 2024
Page 2 of 2

Respectfully submitted,

/s/ Elizabeth Knauer

Elizabeth Knauer
Mark A. Chertok
SIVE, PAGET & RIESEL, P.C.
560 Lexington Ave., 15th Floor
(646) 378-7228 / (646) 378-7272
eknauer@sprlaw.com
mchertok@sprlaw.com

/s/ Roberta A. Kaplan

Roberta A. Kaplan
Gabrielle E. Tenzer
KAPLAN HECKER & FINK LLP
350 Fifth Avenue, 63rd Floor
New York, New York 10118
(212) 763-0883
rkaplan@kaplanhecker.com
gtenzer@kaplanhecker.com

Joshua A. Matz
Kate Harris (admitted *pro hac vice*)
KAPLAN HECKER & FINK LLP
1050 K Street NW, Suite 1040
Washington, DC 20001
(212) 763-0883
jmatz@kaplanhecker.com
kharris@kaplanhecker.com

*Counsel for Defendants the
Metropolitan Transportation Authority,
the Triborough Bridge and Tunnel Authority,
and the Traffic Mobility Review Board*